

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:19-cv-00260-MR**

S. SHANE SMITH,

Plaintiff,

vs.

JUSTIN LYTLE,

Defendant.

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ORDER

THIS MATTER is before the Court on Plaintiff's Request for Accommodations¹ [Doc. 58].

The instant civil rights case is presently scheduled for a jury trial commencing on March 14, 2022 at 9:00 a.m. [See Doc. 57]. The *pro se* incarcerated Plaintiff, who was born without fingers or toes, requests the following accommodations for trial (renumbered): (1) the appointment of counsel; (2) the use of his own non-networked, standalone laptop computer; and (3) a slower trial pace and frequent bathroom breaks.² [Doc. 58]. The Defendant has filed a Response: (1) expressing no opinion regarding the

¹ This document is titled "Plaintiff's Response to the Court's 12/03/21 Order."

² The Plaintiff requests no mobility accommodations. [See Doc. 58 at 6].

Plaintiff's request for counsel; (2) agreeing to Plaintiff's use of his laptop so long as he is not able to connect to the internet/intranet;³ and (3) agreeing to a slower trial pace and to frequent bathroom breaks so long as they are reasonable and not used to disrupt the defense case. [Doc. 59].

The Plaintiff's request that counsel be appointed for logistical purposes at trial is denied for the same reasons that his prior Motion for the Appointment of Counsel was denied. [See Docs. 55, 56]. The Plaintiff's request to bring a non-networked laptop to trial to accommodate his need for note-taking, to which Defendant does not object, is granted. The Plaintiff's requests for a slower trial pace and for frequent bathroom breaks will be addressed at a Final Pretrial Conference, which will be held on Monday, March 14, 2022 at 9:00 a.m., for which the Plaintiff's presence is required. Jury selection and trial will begin on Tuesday, March 15, 2022 at 9:00 a.m. Additional issues, such as whether the Plaintiff is requesting the use of a printer, or assistance with presenting exhibits, may also be addressed at the Final Pretrial Conference.

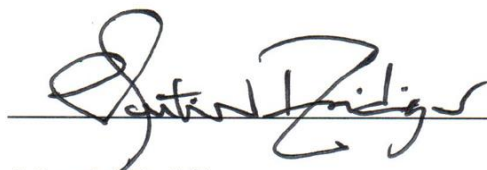
³ Defense counsel confirms that Plaintiff's laptop has had its ethernet and wireless adaptor disabled, and its wireless card removed. [Doc. 59 at 3]. Defense counsel further notes that Plaintiff's laptop, charger cord, mouse, USB cord for a printer, paperwork, and books that will be transported in a laptop bag, and will likely be transported by the Plaintiff. [Id. at 3-4].

IT IS, THEREFORE, ORDERED that:

1. The Plaintiff's Request for Accommodations [Doc. 58] is **GRANTED IN PART** and **DENIED IN PART** as stated in this Order.
2. A Final Pretrial Conference is set for Monday, March 14, 2022 at 9:00 a.m. in Courtroom 1, 100 Otis St., Asheville, NC 28801, at which the Plaintiff must be present.
3. A Jury Trial is set for Tuesday, March 15, 2022 at 9:00 a.m. in Courtroom 1, 100 Otis St., Asheville, NC 28801, at which the Plaintiff must be present.
4. The Clerk's Office is respectfully directed to send a copy of this Order to all parties; the U.S. Marshal; the Warden of the Foothills Correctional Institution, 5150 Western Avenue, Morganton, NC 28655; and Joyce Meadows, NCDPS Administrative Specialist for Writs, joyce.meadows@ncdps.gov.

IT IS SO ORDERED.

Signed: February 2, 2022



Martin Reidinger
Chief United States District Judge

